P6

C.F. 71.

19 37

Department of Rev

OFFICE of the Bd of Rev.

STATION Madras.

2.30 pm 6/10

Mis No. 3126

A 3436/37

Dated 6-10-37

Despy Asstt Secy forwards.

Endorsement & Despy

Returned/ll & Records.

Pages in the file

(SUBJECT.)

Suits - (S. Kanara) - Mangalore Dt. Munsif

O.S 185/32 - Assignment - Reservation of pat

Adverse decision - Filing of appeal - Not neces

Rp 111

A 44/36

BOARD
29 SEP 1937
MADRAS

Ref.A3.No. 3318-36
5955-32.

South Kanara Collector's office,
Mangalore, dated 27 - 9 - 1937.

From

M.R.Ry. Rao Bahadur M.V.Vellodi, Avl., B.A.,
Collector of South Kanara.

To

The Secretary,
Board of Revenue,
M a d r a s.

Sir,

Suits - Mangalore - Dt. Munsif's court - O.S. 185/32- Assignment - Reservation of path -Adverse decree - report ------ submitted.

Ref: B.P. No. Mis. 2828 dated 24-9-1932.

The above suit was disposed of on 30-7-37 and I submit herewith a printed copy of the judgment and the following documents:- (1) Certified copy of Commissioner's plan, (2) certified copy of decree and (3) copy of the Mangalore Government Pleader's letter Ref. No. A.447-37 dated 15-9-1937 with his file of exhibits. In the circumstances stated by the Government ----- Pleader, as also in view of the instructions contained in B.P.No. 103 L.R. dated 12-4-1910, I do not propose to file an appeal in this case.

2. If however, the 1st defendant plaintiff should file an appeal, I will consider if it is necessary and feasible to file a memo of cross objections.

27.9.37

For Collector.

27.9.37

Letter-from the Government Pleader, Mangalore.
To-the Collector of South Kanara, Mangalore.
Dated-Mangalore, 15.9.1937.
No.-Ref.No.A-447/37.

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Suits - O.S.185/32 - Mangalore District Munsif's Court.- Reservation of pathway - Copy of Judgment and decree.

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Reference:- A.No.3518/36, dated 2.8.1937.
5955/32

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I am herewith forwarding certified copies of the Judgment, decree and plan prepared by the Commissioner in O.S. 185/32 on the file of the District Munsif, Mangalore. From a perusal of the Judgment it will be seen that after reviewing the entire evidence, the Munsif has held that the plaintiff has no cause of action against the Government. He has however refused to Order the plaintiff to pay the costs of the Government.

Costs of suit is generally in the discretion of the court and on appeal against costs only will not generally be entertained unless there is question of principle involved. In the present case the Munsif holds that the direction in Exhibit VII, the order of the Collector, was unnecessary at that stage of the proceedings as it is liable to be misconstrued that a pathway through the plaintiff's land has been impliedly recognised to exist by the Revenue Department. Under the circumstances I am of opinion that on appeal against the order of the Munsif for refusing to grant the Government the costs in this suit cannot be filed with fair chances of success.

Regarding the obtaining back of the documents filed by the Government in this suit, it is not possible to get them back until the appeal time expires and then too if no appeal is filed. In this case there is every chance of the ------- defendant appealing. I am however sending you herewith copies of the said documents retained by me.

It will be seen from the decree that I am entitled under

law to a legal fee of Rs.25.0.0. My bill for the said amount may be kindly passed..

(True Copy)

for Collector.

5 M.(J.F.H)

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...		
When copied ...		
When examined...		
When signed ...		
When despatched.		

SUBJECT :—

Suits - (S. Kanara) - Mangalore Municip - O.S No. 185/32 - Assignment - Reservation of path - Adverse decision - Filing of appeal. Not necessary.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

Plg No. ~~A 3436/37~~ From the coll of S. Kanara Ref A3 No. ~~5918/32~~ 3318/36, dated 27.9.1937. Q.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout. No. 3126, dated 6.10. 19 37.

The Collector is informed that there is no need to prefer an appeal in this case. No appeal need be filed in this Case.

hw 5.10.37
hr 6.10.37

6.10.37

To the coll of South Kanara with

(1) certified copy of the Commissioner's plan

(2) certified copy of decree

(3) A printed copy of the Judgment

(4) A file of exhibits returned.

hr 6.10.37

Despw Advice to counsel.
hw 6.10

Engrossment to Dumn
hw 8.10.

Notefile

Suits-(S.Kanara)-Mangalore Dt Munsif-

M1 O.S 185/32- Assignment-Reservation of path-

J.S(A) Adverse decision- Report- Submitted.

A.S(L.R)

p1 cf A 3436/37- Rej A3- $\frac{3318-36}{5955-32}$ 27 $\frac{9}{37}$ from the Coll of S.Kanara

To A.S(L.R)

Please see the coll's letter at p1 cf and the Ag.P's opinion at pp 3-4 cf.

2, While holding that the plaintiff has no cause of action against the govt (2nd defendant), the Dt Munsif has disallowed costs to the govt viz. Rs 25/ pleader's fee allowable. There is no need to prefer an appeal in this case as stated by the coll. The coll states that he will consider the question of filing a memo of cross objections if the Ist defendant files an appeal. He may be asked to do so.

Affirmed
5.X.37

hw 2/10/37 AL 5/10/37 J.S (A) 5.X.37

M.1

Pl(Rs nfs
5.11.37
A.S(L.R)

A.S(L.R)

Draft submitted.

AL 6/10/37

hw 5.10.37
6/10/37